No. 15-674

In the Supreme Court of the United States

UNITED STATES OF AMERICA, ET AL.,

Petitioners,

v.

STATE OF TEXAS, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF AMICI CURIAE CALIFORNIA BUSINESS, CIVIC, EDUCATIONAL, AND RELIGIOUS FIGURES AND INSTITUTIONS SUPPORTING PETITIONERS

BRADLEY S. PHILLIPS
Counsel of Record
BENJAMIN J. HORWICH
JOHN F. MULLER
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue
Los Angeles, CA 90071
Brad.Phillips@mto.com
(213) 683-9100

Counsel for Amici Curiae

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20002

LIST OF AMICI CURIAE*

Business Leaders:

California Association of Boutique & Breakfast Inns

California Hotel and Lodging Association

California Restaurant Association

Community Alliance with Family Farmers

San Francisco Chamber of Commerce

San Jose Silicon Valley Chamber of Commerce

AltaMed Health Services Corporation

Driscoll's Berries

Richard E. Dotts, President/Owner,
DMS Facility Services

Edward M. Kashian, CEO,
Lance-Kashian & Company

Shah Kazemi, President and CEO,
Monterey Mushrooms

R. Craig McNamara, President, Sierra Orchards

Guadalupe Sandoval, Executive Director,
California Farm Labor Contractor Association

Victor Smith, CEO, JV Smith Companies d/b/a JV
Farms Organic

Steven A. Zuckerman, President,
Self-Help Federal Credit Union

---

* Where provided, institutional affiliations are for informational purposes only and are not intended to indicate endorsement by the institution of the views of the individual amicus.

Civic Leaders:

California Endowment

California Wellness Foundation

Rosenberg Foundation

Luis A. Alejo, Chair,
California Latino Legislative Caucus

Austin Beutner, Founder and Chairman,
Vision to Learn; Founder, Evercore Partners;
Former First Deputy Mayor, City of Los Angeles

Eli Broad, Philanthropist

Antonia Hernandez, President & CEO,
California Community Foundation

Laurene Powell Jobs, President, Emerson Collective

Mickey Kantor, Secretary of Commerce,
President Bill Clinton

Monica Lozano, Chairman,
Aspen Institute Latinos and Society Program

Norm Mineta, President and CEO,
Mineta and Associates, LLC

Craig Newmark, Founder, craigconnects

Angelo Tsakopoulos

Educational Leaders:

Stanford University

Janet Napolitano, President,
University of California

Nicholas B. Dirks, Chancellor, UC Berkeley

Linda P.B. Katehi, Chancellor, UC Davis

Howard Gillman, Chancellor, UC Irvine

Gene D. Block, Chancellor, UC Los Angeles

Dorothy Leland, Chancellor, UC Merced

Kim A. Wilcox, Chancellor, UC Riverside

Pradeep K. Khosla, Chancellor, UC San Diego

Sam Hawgood, Chancellor, UC San Francisco

Henry T. Yang, Chancellor, UC Santa Barbara

George Blumenthal, Chancellor, UC Santa Cruz

Mónica García, Board Member,
Los Angeles Unified School District

Steve Zimmer, Board Member,
Los Angeles Unified School District

Brian King, Chancellor,
Los Rios Community College District

J. Gregg Robinson, Ph.D., President,
San Diego County Board of Education

Religious Leaders:

Most Reverend Gerald R. Barnes,
Bishop of the Diocese of San Bernardino

Bishop J. Jon Bruno, Bishop of Los Angeles,
Episcopal Diocese of Los Angeles

Reverend Samuel Rodriguez

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Cal. Assem. Bill No. 20 Assembly Floor Analysis (June 3, 2015) 11

Cal. Assem. Bill No. 60 (Stats. 2013, ch. 524) 20

Cal. Assem. Bill No. 60, Senate Floor Analysis (Sept. 12, 2013) 21

Cal. Assem. Bill No. 131 (Stats. 2011, ch. 604) 10

Cal. Assem. Bill No. 540 (Stats. 2001, ch. 814) 10

Cal. Assem. Bill No. 540 Assembly Floor Analysis (Sept. 18, 2001) 10

Cal. Legislative Info., History, AB-20 Undocumented Workers: California Agricultural Act (2015-2016) 11

Cal. Legislative Info., Votes, SB-396 Public Services (2013-2014) 17

Cal. Legislative Info., Votes, SB-1159 Professions and Vocations: License Applicants: Individual Tax Identification Number (2013-2014) 9

Cal. S.B. 4 (Stats. 2015, ch. 709) 16

Cal. S.B. 4 Assembly Floor Analysis (Sept. 11, 2015) 17

Cal. S.B. 396 (Stats. 2014, ch. 318) 17

Cal. S.B. 396 Assembly Floor Analysis (June 22, 2014) 17

Cal. S.B. 1159 (Stats. 2014, ch. 752) 9

Cal. S.B. 1159 Senate Floor Analysis (Aug. 29, 2014) 9

Cal. S.B. 1210 (Stats. 2014, ch. 754) 10

Cal. S.B. 1210 Senate Floor Analysis (Aug. 26, 2014) 10

15 Cong. Rec. 14,285 (1989) 4

ICE Worksite Enforcement—Up to the Job? Testimony Before the House Committee on the Judiciary Subcommittee on Immigration Policy and Enforcement, 112th Cong., 1st Sess. 5 (Jan. 26, 2011) 5

MISCELLANEOUS

Am. Psychological Ass'n Presidential Task Force on Immigration, *Crossroads: The Psychology of Immigration in the New Century* (2012) 14

Anaheim Police Dep't, Policy Manual (2013) 20

Frank D. Bean et al., *Mexican Immigrant Political and Economic Incorporation*, 4 Pol. Sci. & Pol. 309 (2006) 14

Frank D. Bean et al., *The Educational Legacy of Unauthorized Migration: Comparisons Across U.S.-Immigrant Groups in How Parents' Status Affects Their Offspring*, 45 Int'l Migration Rev. 348 (2011)..... 14

Kalina M. Brabeck et al., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families*, 84 Am. J. Orthopsychiatry 496 (2014) 13

Stephen Bronars, P'ship for a New Am. Econ. & Agric. Coal. for Immigration Reform, *No Longer Home Grown: How Labor Shortages Are Increasing America's Reliance on Imported Fresh Produce and Slowing U.S. Economic Growth* (2014) 7

J. David Brown et al., *Does Employing Undocumented Workers Give Firms a Competitive Advantage?* 16-18 (Fed. Reserve Bank of Atl., Working Paper No. 2012-2A, 2012)..... 9

Cal. Immigrant Policy Ctr. & Ctr. for the Study of Immigrant Integration at USC, *Looking Forward: Immigrant Contributions to the Golden State 2014* (2014) 3, 8

Ajay Chaudry et al., Urban Inst., *Facing Our Future: Children in the Aftermath of Immigration Enforcement* (2010) 13

Joanna Dreby, *The Burden of Deportation on Children in Mexican Immigrant Families*, 74 J. Marriage & Fam. 829 (2012) 13, 22

Editorial, *A Chance at College: Shutting Out Undocumented is Shortsighted*, Sacramento Bee, July 3, 2001 10

Garden Grove Police Dep't, General Order 17.3 (2007) 20

Shelby Grad, *Immigrants Can Soon Get Driver's Licenses, but It's Been a Long Road*, L.A. Times, Dec. 28, 2014 21

Michael Greenstone & Adam Looney, The Hamilton Project, Brookings Inst., *Ten Economic Facts About Immigration* (2010) 5

Jacqueline M. Hagan et al., *Social Effects of Mass Deportations by the United States Government, 2000-10*, 34 Ethnic & Racial Stud. 1374 (2011) 16

Raul Hinojosa-Ojeda, N. Am. Integration & Dev. Ctr., UCLA, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* (2014) 8

Raul Hinojosa-Ojeda, N. Am. Integration & Dev. Ctr., UCLA, *The Economic Benefit of Expanding the Dream: DAPA and DACA Impacts on Los Angeles and California* (2015)..... 11

Immigration & The States Project, Pew Charitable Trusts, *Immigrant Employment by State and Industry* (2015)..... 7

Anita Khashu, Police Found., *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* (2009) 12, 19

Nancy S. Landale et al., *Behavioral Functioning Among Mexican-Origin Children: Does Parental Legal Status Matter?* 56 J. Health & Soc. Behavior 2 (2015)..... 14, 15

Melanie Mason, *California Gives Immigrants Here Illegally Unprecedented Rights, Benefits, Protections*, L.A. Times, Aug. 11, 2015 4

Kevin F. McCarthy & Georges Vernez, RAND, *Immigration in a Changing Economy: California's Experience* (1997) 3, 5

Kevin F. McCarthy & Georges Vernez, RAND, *Immigration in a Changing Economy: California's Experience—Questions and Answers* (1998)..... 6

News Release, Bureau of Econ. Analysis, U.S. Dep't of Commerce, *Board Growth Across States in 2014* (June 10, 2015)..... 8

Office of the Chief of Police, L.A. Police Dep't, Special Order No. 40 (Nov. 27, 1979) 20

Office of Cmty. Oriented Policing Servs., U.S. Dep't of Justice, *Enhancing Community Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders* (2010) 22

Javier Panzar, *It's Official: Latinos Now Outnumber Whites in California*, L.A. Times, July 8, 2015 19

Jeffrey S. Passel et al., Pew Research Ctr., *Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007* (2015) 7

Manuel Pastor et al., USC Dornsife Ctr. for the Study of Immigrant Integration, *Expanding Opportunity: How California Gains if the President's Executive Actions on Immigration Are Implemented* (2016) 3, 11, 12, 18

Giovanni Peri, *Immigrants' Complementarities and Native Wages: Evidence from California* (Nat'l Bureau of Econ. Research, Working Paper No. 12956, 2007) 6

Giovanni Peri, *The Effect of Immigrants on U.S. Employment and Productivity* (Fed. Reserve Bank of S.F., Econ. Letter No. 2010-26, Aug. 30, 2010) 5

Police Exec. Research Forum, *Voices from Across the Country: Local Law Enforcement Officials Discuss the Challenges of Immigration Enforcement* (2012) 21

Post-Deportation Human Rights Project, Boston Coll., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* (2013) 12

Nadereh Pourat et al., *Assessing Health Care Services Used by California's Undocumented Immigrant Population in 2010*, 33 Health Aff. 840 (2014) 15

Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (2001) 15

Santa Cruz Police Dep't, Policy Manual (2008) 20

Marc B. Schenker et al., Univ. of Cal. Global Health Inst., *Improving the Health of Agricultural Workers and their Families in California* (2015) 8

Angilee Shah, Pub. Radio Int'l, *A Network of Churches Are Among Those Trying to Reach Undocumented Immigrants with Water in Flint* (Jan. 26, 2016) 19

Sonoma Cnty. Sherriff's Dep't, Policy Manual (2006) 20

Roberto Suro et al., Tomás Rivera Policy Inst. at USC & Institute for Immigration, Globalization & Education at UCLA, *Removing Insecurity: How American Children Will Benefit from President Obama's Executive Action on Immigration* (2015) 14, 15

Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* (2013) 19

U.S. Census Bureau, U.S. Dep't of Commerce, *QuickFacts California* (2015) 3

Jacob L. Vigdor, Am. Soc'y & Council of the Ams., *Immigration and the Revival of American Cities: From Preserving Manufacturing Jobs to Strengthening the Housing Market* (2013) 6

Elizabeth Whitman, *California Health Insurance for All Undocumented Immigrants? State Looks to Sidestep Obamacare and Cover Insured*, Int'l Bus. Times, July 30, 2015 15

INTEREST OF AMICI CURIAE[1]

Amici curiae are a group of business, civic, educational, and religious figures and institutions in California that recognize how vital sound immigration-enforcement policy is to the strength, stability, and safety of California's communities, families, and economy. The Deferred Action for Childhood Arrivals (DACA) expansion and Deferred Action for Parents of Americans (DAPA) policies at issue would complement and fortify the sound policies that California has already adopted with respect to undocumented immigrants. Amici accordingly submit this brief to explain to this Court how the district court's injunction is particularly injurious to California's public interest.

SUMMARY OF ARGUMENT

More than any other State, California has grappled with the practical realities of the issues that DACA and DAPA address. California has long been home to the largest population of undocumented immigrants in the Nation and in the vanguard of the national debate about undocumented immigrants. California's experience shows that expanded DACA and DAPA

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[1] No counsel for a party authored this brief in whole or in part, and no person other than amici or their counsel has made a monetary contribution intended to fund the preparation or submission of the brief. All parties have either filed with the Clerk a letter of blanket consent to the filing of briefs of amici curiae or given a written consent to the filing of this brief that accompanies this brief.

serve the public interest in stronger, safer, and more prosperous communities.

Federal immigration officials are given the resources each year to remove from the United States only a small fraction—about 1 in 25—of undocumented immigrants present in the United States. Yet most undocumented immigrants in California—including, of special relevance, those who are not a priority for removal—remain in forced isolation from every aspect of society, to the detriment of their citizen and legal-resident family members, the communities where they live, and the State at large. Recognizing this reality, California has increasingly invoked, on a largely bipartisan basis, its limited authority in the immigration arena to strengthen the State through sound policies for undocumented immigrants.

These efforts, like expanded DACA and DAPA, promote the interests of all Californians. The State's economy is best served by a stable, fair, and efficient business environment. California's civic life benefits from cohesive family units, robust civic participation, and the strength of social and religious communities. And public safety relies on cooperation between the police and the public. The President's order advances—and the district court's injunction disserves—each of these interests, in California and nationwide.

ARGUMENT

Within our "nation of immigrants," California embodies the immigrant experience more than any other

State.[2] More than a quarter of the Nation's immigrant population resides in California, and more than forty percent of California's population consists of immigrants and their children.[3] California is also home to roughly a quarter of the Nation's undocumented immigrants—by some estimates, 2.9 million people, or more than seven percent of California's population.[4] This state of affairs is not new: In the last half-century, California has attracted more immigrants—and done more to grapple with immigration policy—than any other State.[5]

It is no accident that the first major extension of discretionary reprieves from deportation—President Ronald Reagan's "Family Fairness" initiative—emerged from the administration of a former Governor of California. The initiative, later expanded by

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[2] See Kevin F. McCarthy & Georges Vernez, RAND, *Immigration in a Changing Economy: California's Experience* 11 (1997), http://www.rand.org/content/dam/rand/pubs/monograph_reports/2007/MR854.pdf.

[3] Cal. Immigrant Policy Ctr. & Ctr. for the Study of Immigrant Integration at USC, *Looking Forward: Immigrant Contributions to the Golden State 2014*, at 2 (2014), http://www.caimmigrant.org/research-and-analysis/contributions-html.

[4] Manuel Pastor et al., USC Dornsife Ctr. for the Study of Immigrant Integration, *Expanding Opportunity: How California Gains if the President's Executive Actions on Immigration Are Implemented* 2 fig. 1 (2016), http://dornsife.usc.edu/assets/sites/731/docs/USC_CSII_Expanding_Opportunity_DAPA_DACA_1A.pdf; U.S. Census Bureau, U.S. Dep't of Commerce, *QuickFacts California* (2015), http://www.census.gov/quickfacts/table/PST045215/06.

[5] Cf. McCarthy & Vernez, *Immigration in a Changing Economy*, at 12-16.

President George H.W. Bush's administration, granted deportation reprieves to noncitizen children living with parents who had been granted lawful immigration status under the Immigration Reform and Control Act of 1986. When the Senate took up a proposal to legislatively codify President Reagan's initiative, both of California's Senators at the time, Republican Pete Wilson and Democrat Alan Cranston, supported the measure.[6] On the Senate floor, Wilson noted that the Nation "simply [did] not have the manpower to expend [to deport all undocumented immigrants] but the threat of deportation remains." This, he argued, "makes no sense. It is doing no one any good. Let them become productive, let them come out of the shadows, let them become employed * * * ."[7]

For the same reasons, California has moved, within the constraints on its lawful authority in the immigration arena, to help undocumented immigrants "come out of the shadows." While it has taken time for California policymakers to coalesce around a common approach, recent efforts have provoked little partisan controversy. As former Assembly Republican Leader Kristin Olsen recently observed, "There is a growing recognition now that we're a state of rich diversity. We're a state of immigrants and that's a positive."[8] For the same reason that Californians have found these state-level efforts to be in the public

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[6] 15 Cong. Rec. 14,285 (1989).

[7] *Id.* at 14,283.

[8] Melanie Mason, *California Gives Immigrants Here Illegally Unprecedented Rights, Benefits, Protections*, L.A. Times, Aug. 11, 2015, http://www.latimes.com/local/California/la-me-california-immigrant-rights-20150811-story.html.

interest, expanded DACA and DAPA are in the public interest as well: by affording deferred action to undocumented immigrants who are not a priority for removal, these initiatives promise to improve California's economy, civic life, and public safety. The injunction is contrary to these interests and should be vacated.

A. The Injunction Harms California's Economy

California's "employers, and its economy more generally, have been the primary beneficiaries" of immigration to the State.[9] As Cato Institute scholar Daniel Griswold testified to Congress in 2011, immigrant workers tend to complement native workers rather than compete with them, filling jobs that native workers often decline to take.[10] The result is greater economic output, more opportunities for native workers to specialize in skilled work, and higher levels of spending and investment.[11]

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[9] McCarthy & Vernez, *Immigration in a Changing Economy*, at xxv.

[10] *ICE Worksite Enforcement—Up to the Job? Testimony Before the House Committee on the Judiciary Subcommittee on Immigration Policy and Enforcement*, 112th Cong., 1st Sess. 5 (Jan. 26, 2011) (testimony of Daniel Griswold), http://judiciary.house.gov/_files/hearings/pdf/Griswold01262011.pdf.

[11] *E.g.*, Giovanni Peri, *The Effect of Immigrants on U.S. Employment and Productivity* (Fed. Reserve Bank of S.F., Econ. Letter No. 2010-26, Aug. 30, 2010), http://www.frbsf.org/economic-research / publications / economicletter / 2010 / august/effect-immigrants-us-employment-productivity; Michael Greenstone & Adam Looney, The Hamilton Project, Brookings Inst., *Ten Economic Facts About Immigration* 5 (2010),

These effects have contributed to the rapid growth of California's economy. Immigration to California between 1990 and 2004 yielded a four percent real-wage increase for the average native worker.[12] Likewise, a RAND study "found a statistically significant, positive association between the rate of an industry's growth in California (relative to that industry's growth in the rest of the nation) and its dependence on immigrant labor."[13] According to the study, between 1960 and 1990, the growth rate of California industries outpaced that of the same industries nationally by one percentage point for every five percentage point increase in the proportion of immigrants in California industry relative to national industry.[14] For example, Los Angeles has remained the largest manufacturing center in the United States, far outpacing other manufacturing centers like Chicago, Detroit, and Philadelphia.[15] California's highly

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http://www.brookings.edu/~/media/research/files/reports/2010/9/immigration-greenstone-looney/09_immigration.pdf.

[12] Giovanni Peri, *Immigrants' Complementarities and Native Wages: Evidence from California* 18-20 (Nat'l Bureau of Econ. Research, Working Paper No. 12956, 2007), http://www.nber.org/papers/w12956.pdf.

[13] Kevin F. McCarthy & Georges Vernez, RAND, *Immigration in a Changing Economy: California's Experience—Questions and Answers* 29 (1998), http://www.rand.org/content/dam/rand/pubs/monograph_reports/1998/MR854.1.pdf.

[14] *Ibid.*

[15] Jacob L. Vigdor, Am. Soc'y & Council of the Ams., *Immigration and the Revival of American Cities: From Preserving Manufacturing Jobs to Strengthening the Housing Market* 8 (2013), http://www.as-coa.org/sites/default/files/ImmigrationUSRevivalReport.pdf.

successful industrial and agricultural businesses struggle to employ new workers who are legal permanent residents or U.S. citizens. At the height of the Great Recession in 2010, California farmers posted ads for more than 1,160 farm-worker positions, yet only 233 legal permanent residents or U.S. citizens responded.[16]

As a result, California's economic growth has depended to a significant degree on undocumented workers. California's agriculture and extraction industries employ 3.6 immigrants for every one native worker, compared to a national industry average of 1.5 immigrants per native worker.[17] Undocumented immigrants, representing just 7% of the State's population, make up 34% of its farm workers, 22% of its production workers, and 21% of its construction workers according to one estimate.[18] Other estimates place these figures even higher: the proportion of California farm workers who are undocumented, for

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[16] Stephen Bronars, P'ship for a New Am. Econ. & Agric. Coal. for Immigration Reform, *No Longer Home Grown: How Labor Shortages Are Increasing America's Reliance on Imported Fresh Produce and Slowing U.S. Economic Growth* 9 (2014), http://www.renewoureconomy.org / wp-content/uploads/2014/03/no-longer-home-grown.pdf.

[17] Immigration & The States Project, Pew Charitable Trusts, *Immigrant Employment by State and Industry* (2015), http://www.pewtrusts.org / en / multimedia / data-visualizations/2015/immigrant-employment-by-state-and-industry.

[18] Jeffrey S. Passel et al., Pew Research Ctr., *Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls Since 2007* 18 (2015), http://www.pewhispanic.org/files/2015/03/2015-03-26_unauthorized-immigrants-passel-testimony_REPORT.pdf.

instance, may be closer to 60%.[19] Today, the undocumented workforce alone contributes $130 billion to California's gross domestic product (GDP)—an amount larger than the entire respective GDPs of 19 other States.[20]

Relegating these undocumented immigrants to an informal economy creates inefficiencies and perverse incentives. Undocumented immigrants unable to work legally can have difficulty finding work commensurate with their skill levels, and they face multiple barriers that are a disincentive to improving their skills in pursuit of higher wages.[21] This depresses wages for everyone, entrenches underemployment, and prevents the State's economy from reaching full productivity. Law-abiding businesses, meanwhile, face competitors that ignore labor and safety laws, knowing that their undocumented workers are unlikely to complain. In some industries—

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[19] Marc B. Schenker et al., Univ. of Cal. Global Health Inst., *Improving the Health of Agricultural Workers and their Families in California* 7 (2015), http://www.ucghi.universityofcalifornia.edu/docs/ucghi-ag-work-paper-2015.pdf.

[20] Cal. Immigrant Policy Ctr., *Looking Forward*, at 2; News Release, Bureau of Econ. Analysis, U.S. Dep't of Commerce, *Board Growth Across States in 2014* (June 10, 2015), http://www.bea.gov/newsreleases/regional/gdp_state/2015/pdf/gsp0615.pdf.

[21] Raul Hinojosa-Ojeda, N. Am. Integration & Dev. Ctr., UCLA, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 9-10 (2014), http://www.naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_immigration_reform.pdf.

such as construction, manufacturing, and hospitality—this dynamic pressures businesses to either flout the law or risk failure.[22]

Recognizing that the constraints on federal immigration enforcement guarantee that California will continue to host a large and economically vital population of undocumented immigrants, California has worked (within the limits of federal law) to better align incentives for businesses and undocumented workers. For example, in 2014, the California Legislature passed a law prohibiting state licensing boards from denying professional licenses to applicants based on their immigration status.[23] Measures of this sort are matters of economics, not politics: In the California Senate, both a majority of Republicans and a majority of Democrats favored the measure.[24] Supporting the law, the Los Angeles Area Chamber of Commerce emphasized that it would ensure that members of California's workforce would not be "limited in their ability to contribute to our state."[25]

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[22] J. David Brown et al., *Does Employing Undocumented Workers Give Firms a Competitive Advantage?* 16-18 (Fed. Reserve Bank of Atl., Working Paper No. 2012-2A, 2012), https://www.frbatlanta.org/-/media/Documents/research/publications/wp/2012/wp1202a.pdf.

[23] Cal. S.B. 1159 (Stats. 2014, ch. 752).

[24] See Cal. Legislative Info., Votes, SB-1159 Professions and Vocations: License Applicants: Individual Tax Identification Number (2013-2014), http://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201320140SB1159.

[25] Cal. S.B. 1159 Senate Floor Analysis 7-8 (Aug. 29, 2014), http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml.

Similarly, the California Legislature has passed a series of laws expanding educational opportunities for undocumented immigrants. In 2001, with bipartisan support in both houses, California granted in-state tuition at California's public institutions of higher education to students who had attended high school in California and received a high school diploma or equivalent, regardless of their immigration status.[26] Supporters of the bill explained that it would help "talented California high school students" who otherwise would not be able to attend college.[27] The *Sacramento Bee* noted: "There's growing recognition that these students are here to stay. California either can help them become more productive contributors to society or maintain barriers that could confine them to the low-wage jobs so many of their parents have worked for years."[28] In 2011 and 2014, California extended public grant-based financial aid and student loans to those same students.[29] These bills reflected a decision to "invest" in these students, enabling them to better contribute to California's economy.[30]

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[26] Cal. Assem. Bill No. 540 (Stats. 2001, ch. 814); see *Martinez v. Regents of Univ. of Cal.*, 241 P.3d 855, 861 & n.1 (Cal. 2010).

[27] Cal. Assem. Bill No. 540 Assembly Floor Analysis 3 (Sept. 18, 2001), http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_0501-0550/ab_540_cfa_20010918_163923_asm_floor.html.

[28] Editorial, *A Chance at College: Shutting Out Undocumented is Shortsighted*, Sacramento Bee, July 3, 2001, at B6.

[29] Cal. Assem. Bill No. 131 (Stats. 2011, ch. 604); Cal. S.B. 1210 (Stats. 2014, ch. 754).

[30] See Cal. S.B. 1210 Senate Floor Analysis 7 (Aug. 26, 2014), http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1201-1250/sb_1210_cfa_20140826_140154_sen_floor.html.

Another bill, which passed the California Assembly in 2015 by a 69-2 vote and now awaits consideration by the Senate, would grant temporary work permits to undocumented farm workers (subject to federal approval).[31] In support of the bill, a coalition of agricultural employer groups have explained how it would "address labor shortages and ensure long-term labor security" in California's agriculture industry.[32]

The DACA expansion and DAPA promise similar benefits. A study from UCLA estimates that the DACA expansion and DAPA would generate 130,000 new jobs in California alone, increase the collective wages of undocumented immigrants in California by more than $5.5 billion annually, and support public programs with $3.8 billion in new business, personal, and sales tax receipts annually.[33] Moreover, increased wages of DAPA- and expanded-DACA-eligible immigrants have the projected potential to lift 40,000 children in California out of poverty.[34]

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[31] Cal. Assem. Bill No. 20 (Stats. 2015, ch. 8); see Cal. Legislative Info., History, AB-20 Undocumented Workers: California Agricultural Act (2015-2016), http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201520160AB20.

[32] Cal. Assem. Bill No. 20 Assembly Floor Analysis 3 (June 3, 2015), http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB20.

[33] Raul Hinojosa-Ojeda, N. Am. Integration & Dev. Ctr., UCLA, *The Economic Benefit of Expanding the Dream: DAPA and DACA Impacts on Los Angeles and California* 1-2 (2015), http://www.naid.ucla.edu/uploads/4/2/1/9/4219226/la_ca_final_draft_v2.pdf.

[34] Pastor, *Expanding Opportunity*, at 4.

B. The Injunction Harms California Families, Civic Engagement, And Religious Life

Fear of deportation has adverse effects beyond the workplace. It encourages civic withdrawal by millions of Californians, documented and undocumented. Alleviating fears of deportation felt by those whose removal is not a federal priority would enrich the civic life of all Californians.

The fear of deportation of an immigrant who is not a priority for removal—a fear that is alleviated by DAPA and expanded DACA—is felt most acutely at the level of the family, where removal of such a parent could fracture family structure and even prompt family dissolution.[35] Because roughly 85 percent of immigrants in the United States live in mixed-status households[36]—consisting of undocumented immigrants as well as U.S. citizens and/or lawful permanent residents—the threat of deportation is felt profoundly by many people who are *not* undocumented immigrants. In California, 1.4 million U.S. citizen children live with an undocumented parent.[37]

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[35] Post-Deportation Human Rights Project, Boston Coll., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 6 (2013), https://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Pyschosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf.

[36] Anita Khashu, Police Found., *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (2009), http://www.policefoundation.org/content/role-of-local-police.

[37] Pastor, *Expanding Opportunity*, at 4.

One in five immigrant families surveyed in one study did not stay together after the removal of an undocumented parent.[38] Families that do stay together experience drastic declines in income: In one study, more than six months after the arrest of a breadwinner, such families averaged just 47 percent of their pre-removal income, or $238 a week.[39] These catastrophic risks, coupled with the hazards of immigration detention and dislocation, make undocumented parents cautious about social interactions and reluctant to establish community ties. They also place families, often already strained by low incomes and overwork, under tremendous stress.[40]

This stress and social isolation takes a toll on children living with undocumented parents who are not a priority for removal, whether or not those children are themselves undocumented. This manifests in behavioral problems that are in turn linked to poor school performance, substance abuse, rule-breaking,

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[38] Joanna Dreby, *The Burden of Deportation on Children in Mexican Immigrant Families*, 74 J. Marriage & Fam. 829, 836 (2012), http://www.immigrationeval.com/WP/wp-content/uploads/2013/10/Burden-of-Deportation.pdf.

[39] Ajay Chaudry et al., Urban Inst., *Facing Our Future: Children in the Aftermath of Immigration Enforcement* 28 (2010), http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf.

[40] Kalina M. Brabeck et al., *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families*, 84 Am. J. Orthopsychiatry 496, 498 (2014).

and aggression.[41] Related effects have even been found among very young children.[42]

These children also face barriers to education. They are less likely to attend preschools or participate in extracurricular activities.[43] Children of undocumented Mexican immigrants living in California complete on average a year and a half less schooling than otherwise identical children with documented or naturalized parents.[44] History shows that educational outcomes improve when fears of deportation are reduced: Among California children whose fathers became legal permanent residents under the Immigration Reform and Control Act of 1986, roughly 43 percent received a college degree, compared to just 13.6 percent of children whose fathers remained undocumented.[45]

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[41] See Nancy S. Landale et al., *Behavioral Functioning Among Mexican-Origin Children: Does Parental Legal Status Matter?* 56 J. Health & Soc. Behavior 2, 4, 13-15 (2015).

[42] See Roberto Suro et al., Tomás Rivera Policy Inst. at USC & Institute for Immigration, Globalization & Education at UCLA, *Removing Insecurity: How American Children Will Benefit from President Obama's Executive Action on Immigration* 10-11 (2015), http://trpi.org/pdfs/research_report.pdf.

[43] Am. Psychological Ass'n Presidential Task Force on Immigration, *Crossroads: The Psychology of Immigration in the New Century* 34 (2012), http://www.apa.org/topics/immigration/immigration-report.pdf.

[44] Frank D. Bean et al., *The Educational Legacy of Unauthorized Migration: Comparisons Across U.S.-Immigrant Groups in How Parents' Status Affects Their Offspring*, 45 Int'l Migration Rev. 348, 372 (2011).

[45] Frank D. Bean et al., *Mexican Immigrant Political and Economic Incorporation*, 4 Pol. Sci. & Pol. 309, 311 (2006).

Fear of deportation has serious consequences for physical health. Immigrants who are not a priority for removal but nevertheless fear deportation, and their children, face heightened risks of physical health problems and psychological distress.[46] Yet California's undocumented immigrants and their children are less likely than the rest of the population to seek medical treatment,[47] magnifying these adverse effects. The cost to the public fisc is substantial when, as a result, undocumented immigrants and their children forego less expensive, *privately* paid primary and preventive care and rely instead on *publicly* funded emergency-room care that (in 2015) cost the State approximately $1.7 billion.[48]

Fear of civic engagement also has more insidious consequences. When people fear interactions with strangers, civic life is diminished, communities are segmented, exchange of ideas is reduced, and cross-cultural understanding is more difficult to achieve.[49] Undocumented immigrants' fear of deportation caus-

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[46] See Landale, *Behavioral Functioning Among Mexican-Origin Children*, at 4.

[47] Nadereh Pourat et al., *Assessing Health Care Services Used by California's Undocumented Immigrant Population in 2010*, 33 Health Aff. 840, 845-846 (2014); Suro, *Removing Insecurity*, at 3.

[48] See Pourat, 33 Health Aff. at 846; Elizabeth Whitman, *California Health Insurance for All Undocumented Immigrants? State Looks to Sidestep Obamacare and Cover Insured*, Int'l Bus. Times, July 30, 2015, http://www.ibtimes.com/california-health-insurance-all-undocumented-immigrants-state-looks-sidestep-2032398.

[49] *E.g.*, Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (2001).

es them to avoid public places, including in particular houses of worship and other religious gathering places, thereby weakening social and religious communities.[50] The identity of a thriving city or State depends on the sense of community shared by its inhabitants, and those inhabitants in turn draw their dignity and their identities from the social and religious communities they build. The threat to this virtuous circle looms large in California, where the undocumented population numbers in the millions, and the population with close personal ties to undocumented immigrants is much larger still.

California has sought to mitigate these adverse consequences. As noted above, a series of laws have enlarged educational opportunities for undocumented students. California has also begun improving undocumented immigrants' access to health care. A 2015 law, again passed with bipartisan support, extended California's state health coverage for low-income individuals to undocumented children under age 19.[51] The bill's supporters emphasized that it would help ensure that a simple medical condition does not become a costly crisis, noting that, "without access to affordable, quality health insurance, people are forced to rely on emergency care, which means

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[50] See Jacqueline M. Hagan et al., *Social Effects of Mass Deportations by the United States Government, 2000-10*, 34 Ethnic & Racial Stud. 1374, 1378 (2011), http://www.actionresearch.illinois.edu/courses/FAA391_Spring12/Hagagn_2011.pdf.

[51] Cal. S.B. 4 (Stats. 2015, ch. 709).

they delay treatment until they are sicker and treatment is more expensive."[52]

In 2014, in a deeply symbolic move that reflects the status of undocumented immigrants in California, the California Legislature voted to repeal key provisions of Proposition 187, a 1994 measure that had barred undocumented immigrants from receiving certain public services including public education and non-emergency health care.[53] These provisions had been judicially invalidated shortly after the Proposition's passage, but they remained on California's books. The bill repudiating Proposition 187's approach to immigration policy passed the Senate 33-0 and the Assembly 63-1.[54] Per its sponsor, the repeal measure sought to "expressly acknowledge the detrimental impact of the discriminatory and xenophobic Proposition 187 by removing its stain from the state's statutes."[55]

These state-level efforts cannot fully counteract the pernicious civic effects that grow out of fear of deportation for those who are not a priority for removal. This fear derives, ultimately, from uncertainty about federal immigration enforcement practices. By allow-

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[52] Cal. S.B. 4 Assembly Floor Analysis 4 (Sept. 11, 2015), http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0001-0050/sb_4_cfa_20150911_200821_asm_floor.html.

[53] Cal. S.B. 396 (Stats. 2014, ch. 318).

[54] See Cal. Legislative Info., Votes, SB-396 Public Services (2013-2014), http://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201320140SB396.

[55] Cal. S.B. 396 Assembly Floor Analysis 2-3 (June 22, 2014), http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201320140SB396.

ing certain individuals to apply for deferred action, the federal DACA and DAPA programs offer a measure of certainty to a group of undocumented immigrants who have particularly strong ties to the United States and are especially able and likely to contribute to building their communities. Indeed, 75% of the estimated 1.1 million Californians eligible for DAPA and expanded DACA have lived in the country for more than ten years.[56] DACA and DAPA align with California's efforts to strengthen family units and open Californian civic life not only to an important group of undocumented immigrants but also to their close relations, who would otherwise avoid civic interactions for their sake. Those positive effects are in the interest of all Californians.

C. The Injunction Harms California Public Safety

Policies that allow unauthorized immigrants to become more comfortable in the public sphere also contribute to public safety. A strong, trusting, and cooperative relationship between police and the communities they serve is vital to sound law enforcement. When some Californians fear assisting the police, all Californians suffer.

Immigrants who fear deportation tend to avoid interaction with law enforcement. For instance, in a 2013 survey of Latinos living in Los Angeles, Chicago, Houston, and Phoenix, 70 percent of undocumented immigrants reported that their immigration status made them less likely to contact police to report a

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[56] Pastor, *Expanding Opportunity*, at 5.

crime against themselves.[57] This effect extends to individuals with close ties to undocumented immigrants. In the same study, 45 percent of all Latinos reported that they were less likely to contact police about a crime against themselves out of concern that the police might use the interaction to inquire into either their immigration status or the status of someone they knew[58]—a statistic of special significance in California, where nearly 40 percent of the population is Latino.[59]

This reluctance hurts everyone. Undocumented immigrants, already especially vulnerable to crime, are put at still greater peril by their silence.[60] Lacking community assistance hinders law enforcement efforts more generally, as police officers lose potential leads and witnesses that would help them find a suspect or secure a conviction.[61] Urgent public health assistance may be thwarted by undocumented immigrants' reluctance to engage with authorities, as recent tragic events in Flint, Michigan have shown.[62]

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[57] Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* 5-6 (2013), https://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF.

[58] *Ibid.*

[59] Javier Panzar, *It's Official: Latinos Now Outnumber Whites in California*, L.A. Times, July 8, 2015, http://www.latimes.com/local/california/la-me-census-latinos-20150708-story.html.

[60] Khashu, *The Role of Local Police*, at 24-25.

[61] *Id.* at 23-24.

[62] Angilee Shah, Pub. Radio Int'l, *A Network of Churches Are Among Those Trying to Reach Undocumented Immigrants with Water in Flint* (Jan. 26, 2016), http://www.pri.org/stories/2016-

And undocumented workers may be silent about their employers' unlawful activities, insulating employer practices and unsafe conditions that harm all workers.

Here too, California has long sought to develop sound policies toward undocumented immigrants. In 1979, the Los Angeles Police Department adopted a policy, known as Special Order 40, prohibiting police officers from inquiring into the immigration status of individuals not suspected of a crime. The Order explained that "[p]articipation and involvement of the undocumented alien community in police activities will increase the Department's ability to protect and serve the entire community."[63] Other California cities have followed suit, citing the same public safety concerns.[64]

At the state level, a 2013 law passed with bipartisan support allows undocumented immigrants to receive California driver's licenses.[65] Supporters of the

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01-26/network-churches-are-among-those-trying-reach-undocumented-immigrants-water-flint.

[63] Office of the Chief of Police, L.A. Police Dep't, Special Order No. 40 (Nov. 27, 1979), http://assets.lapdonline.org/assets/pdf/SO_40.pdf.

[64] *E.g.*, Anaheim Police Dep't, Policy Manual § 428 (2013), http://www.anaheimconventioncenter.com/DocumentCenter/Home/View/344; Garden Grove Police Dep't, General Order 17.3 (2007), http://ch.ci.garden-grove.ca.us/internet/pd_web/Ch17.pdf; Santa Cruz Police Dep't, Policy Manual § 428 (2008), https://www.indybay.org/uploads/2012/05/19/scpd_policy_manual_8-4-11.pdf; Sonoma Cnty. Sherriff's Dep't, Policy Manual § 428 (2006), http://www.justiceacademy.org/iShare/Library-Manuals/SonomaCountySO.pdf.

[65] Cal. Assem. Bill No. 60 (Stats. 2013, ch. 524).

law noted that, whatever the legal regime, as a practical matter, undocumented immigrants live and drive in California. The law is intended to ensure that "drivers on roads are properly trained, pass the driving test, pass a background check, know our state driving laws, and become insured."[66] In backing the law, LAPD Chief Charlie Beck noted that other efforts over the prior two decades had not reduced by "one iota" the rate of "undocumented aliens driving without licenses." Chief Beck made the common sense point that "[w]hen something doesn't work over and over and over again, my view is that you should reexamine it to see if there is another way that makes more sense."[67]

DACA and DAPA would fortify these efforts. Fear of cooperation with state and local police traces to fear of involvement with the federal immigration system: "[S]ome members of the public * * * may have a misperception that because immigration is governed by laws, all law enforcement agencies have responsibility for enforcing those laws. * * * Police chiefs note that immigrants often have this misperception, which often makes them reluctant to contact local police * * * ."[68] Indeed, immigrant children

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[66] Cal. Assem. Bill No. 60, Senate Floor Analysis 8 (Sept. 12, 2013), http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0051-0100/ab_60_cfa_20130912_135206_sen_floor.html.

[67] Shelby Grad, *Immigrants Can Soon Get Driver's Licenses, but It's Been a Long Road*, L.A. Times, Dec. 28, 2014, http://www.latimes.com/local/politics/la-me-drivers-license-explainer-20141229-story.html.

[68] Police Exec. Research Forum, *Voices from Across the Country: Local Law Enforcement Officials Discuss the Challenges of Immigration Enforcement* 2 (2012), http://www.policeforum.org/

are especially likely to conflate police with immigration enforcement officials.[69] DAPA and expanded DACA improve public safety by creating conditions that encourage community cooperation with police.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

BRADLEY S. PHILLIPS
Counsel of Record
BENJAMIN J. HORWICH
JOHN F. MULLER
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue
Los Angeles, CA 90071
Brad.Phillips@mto.com
(213) 683-9100

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assets/docs/Free_Online_Documents/Immigration/voices%20from%20across%20the%20country%20-%20local%20law%20enforcement%20officials%20discuss%20the%20challenges%20of%20immigration%20enforcement%202012.pdf; see also Office of Cmty. Oriented Policing Servs., U.S. Dep't of Justice, *Enhancing Community Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant Advocates and Law Enforcement Leaders* 16 (2010), http://ric-zai-inc.com/Publications/cops-w0747-pub.pdf.

[69] Dreby, 74 J. Marriage & Fam. at 843.